

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-081-00188I

Parcel No. 811227106056

The Lundell Corporation,

Appellant,

vs.

Sac County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on May 12, 2019. Property Consultant Bill Wentzel represented The Lundell Corporation. Sac County Attorney Ben Smith represented the Board of Review.

The Lundell Corporation (Lundell) owns an industrial property located at 400 West Market Street, Odebolt. The property's January 1, 2019, assessment was set at \$976,880, allocated as \$22,110 in land value and \$954,770 in improvement value. (Ex. A).

Lundell petitioned the Board of Review claiming the assessment was not equitable with the assessments of other like properties and the property was assessed for more than the value authorized by law under Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review denied the petition. (Ex. B).

Lundell then reasserted these claims to PAAB.

Findings of Fact

The subject property is a 53,200 square-foot industrial building operated by Lundell for manufacturing a specialty product line of modular plastic screw conveyors for agricultural production; it is located in Odebolt, Iowa, a rural town with a population of about 1000. The first portion of the building was constructed in 1996. Six additions were added to the original structure between 2001 and 2012. A summary of the subject property is made in the following table.

Identification	Year Built	Area (SF)	Wall Height (ft)	Use (SF)
Building 1	1996	7200	16	1080 office 6120 production/warehouse
Addition 1	2001	4800	16	4800 production/warehouse
Addition 2	2002	9600	16	9600 production/warehouse
Addition 3	2002	2400	12	2400 production/warehouse
Addition 4	2009	8400	16	8400 production/warehouse
Addition 5	2009	4800	16	4800 production/warehouse
Addition 6	2012	16000	16	16000 production/warehouse/ shop/R&D

Vance Lundell, President of the Lundell Corporation, testified on its behalf. He started the company in the 1980s in a rented building in Kiron, Iowa. In 1996, the subject property was constructed in Odebolt and the company was moved. Over time, new product lines were developed and additional building space was needed. Lundell now has twelve full-time employees besides himself.

Lundell asserts the building's layout and design limits its use, and he now wishes they had designed the additions and building differently. He explained various parts of the building and its additions through pictures. (Exs. 1-11). Lundell further

explained the subject's location in the small town of Odebolt makes it difficult to attract and hire professional staff to his business. He indicated Highway 20, the main traffic artery for the area, is located about eleven miles from the property and is accessed by a county blacktop road. He believes the small town location and less than optimum access limits the subject's market value. Lundell listed its alleged issues with the current facility in its post-hearing brief.

Lundell contends he has had concerns regarding the property's assessed value for years but did not want to cause any problems by protesting its valuation. He chose to protest now to do what is right for the company. After researching the assessment of other industrial property in Sac County he believes the subject's assessment is too high.

He explained the Cookies Food Products property in Wall Lake is partially newer, has a lot of concrete in the front of the building, and is assessed for \$13.26 per square foot. He further noted the old Noble Manufacturing building in Sac City is now owned by VT Industries and is assessed for \$5.87 per square foot. He acknowledged this property is a lot older than his but asserts it has higher side walls and is truly an industrial building. He also referenced a spec building in Schleswig that would have been sold for \$160,000. He gave no supporting documentation on these properties and none were believed to have recently sold.

Matt Roeder also testified on Lundell's behalf. Roeder is the Product Development Engineer and manages the production at Lundell Plastics. He has an Ag and Bio Systems Engineering Degree from Iowa State University and explained he first started working at Lundell in 2001, so he is very familiar with the property. Roeder testified parts of the building have twelve-foot exterior walls and asserts the interior wall heights are only nine feet in some areas, or approximately 10,000 square feet of the building. He explained nine-foot wall heights severely limit the use in these portions of the building. Roeder also asserts Addition 6's two separate floor levels lessens its utility and limits its use. While the lower portion of the addition has higher wall heights it cannot be used for production due to only having stair access. It is therefore only usable

as a maintenance garage, machine shop, or storage. In Roeder's opinion, the building has inadequate water pressure for a sprinkler system and inadequate structural framing for overhead cranes. Lastly, the function of the improvements is lessened due to having only one loading dock with the location of the dock making it difficult for trucks to maneuver in and out of the dock area.

In support of its over assessment claim, Lundell requested Don Vaske, MAI, Frandson & Associates, L.C., Des Moines, identify industrial properties in Iowa so Lundell could examine them. (Exs. 13-15). Lundell gave Vaske the following parameters for his search: industrial properties, sold after 2009, located throughout Iowa (excluding Des Moines MSA, Cedar Rapids, Waterloo/Cedar Falls, Davenport/Quad Cities MSA, etc.), and containing 20,000 to 100,000 square feet. (Ex. 13, cover page). Based solely on Lundell's criteria, Vaske provided eighteen properties, which are summarized in the table below.

Property	Size (SF)	Age	Sale Date	Sale Price	Sale Price/SF
Subject	53,200	7-23	NA	NA	NA
V1 - Spencer	19,700	41	Nov-12	\$275,000	\$13.96
V2 - Newton	20,000	12-17	Oct-12	\$381,600	\$19.08
V3 - Northwood	22,800	24	Feb-10	\$525,000	\$23.03
V4 - Hampton	30,000	25	Apr-14	\$625,000	\$20.83
V5 - Spencer	31,782	33-36	Nov-09	\$537,500	\$16.91
V6 - Story City	34,000	17	Dec-12	\$535,000	\$15.74
V7 - Spencer	37,409	41	Jan-12	\$390,000	\$10.43
V8 - Britt	40,932	2-27	Jun-11	\$525,000	\$12.83
V9 - Story City	45,125	13	Feb-11	\$650,000	\$14.40
V10 - Hampton	48,600	12	Jun-14	\$750,000	\$15.43
V11 - Maquoketa	53,100	21	Jan-12	\$450,000	\$8.47
V12 - Hampton	71,056	17	Feb-14	\$765,000	\$10.77
V13 - Emmetsburg	71,850	9-13	Jan-12	\$575,000	\$8.00
V14 - Corning	92,968	29	Sep-11	\$550,000	\$5.92
V15 - Iowa Falls	97,328	5-19	Jul-12	\$1,415,000	\$14.54
V16 - Lake Mills	100,996	37	Jul-12	\$750,000	\$7.43
V17 - Winterset	107,860	15-25	Sep-14	\$1,100,000	\$10.20
V18 - Emmetsburg	113,554	13-41	Oct-12	\$582,500	\$5.13

Vaske did not perform an appraisal or any other valuation service regarding the subject improvements. Vaske was not asked to provide comparable properties, nor did he indicate these properties were comparable to the subject. Lundell asserts both occupied buildings and vacant properties, as supplied by Vaske, need to be taken into account for valuing the subject property.

The Board of Review was critical of the sales that took place between 2009 and 2014 and asserts they are not relevant to the 2019 value of the subject because they are dated. It also asserts not all of the sales are reliable for ad valorem purposes. Justin Barlow, Sac County Assessor, testified on behalf of the Board of Review and explained that he had done extensive research on the sales Vaske provided to Lundell. He asserts nine of the eighteen were not good sales and should not be given consideration for additional reasons that he outlined on Exhibit M. For example, Barlow noted Sale V9 appeared to be a foreclosure; Sale V11 sold from a government organization; Sale V14 was a sale of adjoining land; and Sales V15-17 were vacant at the time of sale. Without further information about these sale conditions, and reviewing Vaske's sale information sheets, it appears some sales would be considered abnormal under Iowa Code section 441.21(1)(b) and could not be used for establishing market value without adjustment. We further note that several of the sales (Sales V2; V4; and V10) were never actively marketed.

Examining those sales closest in size to the subject property (Sales V8-V11), we note the transactions occurred between 2011 and 2014, at least five years prior to the assessment at issue. (Ex. 15). Additionally, Sale V8 was purchased by an adjoining landowner; V9 appears to have been a foreclosure; V10 may be from a government entity or affiliated institution and was purchased by the current tenant; and V11 was also from a local government entity. (Ex. 15). All of these sale conditions may result in the transaction being abnormal or require adjustment to make them comparable to the subject property. For the foregoing reasons, we find the Vaske sales alone are not reliable indications of the subject property's market value.

Lundell also submitted a property record card for a more recent sale and an additional property listing from Vaske. (Exs. 16-17, Pre-Hearing Brief p. 3).

Property	Size (SF)	Age	Sale Date	Sale Price	Sale Price/SF
Subject	53,200	7-23	NA	NA	NA
L1 - Dexter	62,815	14-39	Nov-16	\$610,000	\$9.71
L2 - Monticello ¹	89,157	19-47	Feb-20	\$375,000	\$4.21

The two additional properties are more recent sales, but again have no adjustments made for differences to the subject, despite both being larger and older. Further, both properties have smaller sites than the subject, which would result in a lower sale price and ultimately affect the properties' sale price per square foot. The Board of Review submitted an email from Sarah Benter, Jones County Assessor, regarding Sale L2. She explained the sale had been vacant for over a year prior to its sale. (Ex. O). Barlow asserts this makes L2 a non-arm's-length sale.

The Board of Review submitted three sales that closed between December 2017 and April 2019 that are summarized in the following table. (Exs. D-G, 18).

Property	Size (SF)	Age	Sale Date	Sale Price	Sale Price/SF
Subject	53,200	7-23	NA	NA	NA
B1 - Pella	56,180	21-50	Dec-17	\$1,250,000	\$22.24
B2 - Winterset	61,320	22-25	Apr-19	\$1,800,000	\$29.35
B3 - Spirit Lake	53,000	19-45	Jan-18	\$1,192,500	\$22.50

The Board of Review made no adjustments to the sales, but asserted the unadjusted sale prices of the more recent sales supported the assessed value of the subject.

Lundell believes Sale B3 was not a good sale because two of the three buildings were leased at the time of its sale. It submitted the listing sheet showing the buildings

¹ Lundell asserts this property sold in February 2020 for \$375,000, and it appears this may be accurate based on the Board of Review's Exhibit O, but no sales information was provided for the transaction, without which we have no ability to determine whether the sale is reliable under the provisions of section 441.21(1)(b). We note there is quite a bit of discrepancy between the list price of \$1,192,500 in 2018 and the subsequent sale price, which would make us question the use of the sale for market value purposes. (Appellant Pre-Hearing Brf. p. 3, Ex. O).

were leased but offered no additional information such as the terms of the leases. (Ex. P). We note the leases may need to be considered if adjustments were made to the comparables. The Board of Review asserts the sales are all similar in size and are all located in smaller communities. While none of the three are located in large cities, all are communities larger than Odebolt.

Analysis & Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). New grounds in addition to those set out in the protest to the local board of review may be pleaded and PAAB determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). Here, Lundell asserts that the subject property is not equitably assessed and that it is assessed for more than the value authorized by law as provided under Iowa Code section 441.37(1)(a)(1 & 2).

A. Inequity

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Lundell offered no evidence of the Assessor applying an assessment method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides inequity exists when,

after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher portion of its actual value. *Id.* Further, we note comparable properties must be from the same jurisdiction; thus any of the properties Lundell submitted that are located outside Sac County could not be considered for this claim. *Maytag v. Partridge*, 210 N.W.2d 584, 594-595 (Iowa 1973). Ultimately, the *Maxwell* test requires a showing of the subject property's actual market value and Lundell's over assessment claim requires the same showing, so we forgo further equity analysis and turn to that claim.

B. Over Assessment

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

Under Iowa law, there is no presumption that the assessed value is correct. § 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted). To shift the burden, the taxpayer must "offer[] competent evidence that the market value of the property is different than the market value determined by the assessor." Iowa Code § 441.21(3). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer*, 759 N.W.2d at 782.

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). "A party cannot move to other-factors valuation unless a showing is made that the market value

of the property cannot be readily established through market transactions.” *Wellmark, Inc. v. Polk Cnty. Bd. of Review*, 875 N.W.2d 667, 682 (Iowa 2016).

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W.2d at 783. If PAAB is not persuaded as to the comparability of the properties, then it “cannot consider the sales prices of those” properties. *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Id.* at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).

Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing. *Id.* (other citations omitted). Sale prices must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments”. *Id.* (other citations omitted). “[A] difference in use does affect the persuasiveness of such evidence because ‘as differences increase the weight to be given to the sale price of the other property must of course be correspondingly reduced.’ ” *Soifer*, 759 N.W.2d at 785 (quoting *Bartlett & Co. Grain*, 253 N.W.2d at 93).

Lundell submitted a host of sales it believes show the subject property is over assessed. The sales consisted of industrial properties located in smaller communities throughout Iowa that sold between 2009 and 2016. The sales were not adjusted to account for differences between them and the subject property, therefore we conclude Lundell has not shifted the burden of proof to the Board of Review.

Examining Lundell’s sales from Vaske, some were never exposed to the open market; some do not appear to be arm’s-length transactions; and all are older sales. Even though both Lundell and the Board of Review agreed sales of properties like the

subject property are limited, each submitted newer sales than those Vaske provided. Further, Vaske's sales vary significantly in size as compared to the subject and a number of the sales appear to have been vacant for an extended period of time prior to sale, which may have impacted their sale price. Even those sales most similar in size (Sales V8-11) appeared to have issues with their transaction indicating they may not be arm's-length. All of these factors lead us to conclude the unadjusted Vaske sales do not reliably establish an indication of the subject property's market value.

Additionally, we reject Lundell's blanket assertion that sales of vacant properties, without adjustment, should be considered in setting the subject's assessment. While the fact the properties were vacant at the time of sale does not render them *per se* unreliable, vacant properties require special care as other attributes of the sale may necessitate additional research and adjustment. Though property may be vacant when it sells, the current use of the property and its subsequent use are pertinent factors in valuation. *Wellmark, Inc.*, 875 N.W.2d at 683 (“[V]alue should be based on the presumed existence of a hypothetical buyer at its current use.”); *see also Hy-Vee Food Stores, Inc. v. Carroll County Board of Review*, 2013 WL 5498137 at *3 (Iowa Ct. App. Oct. 2, 2013) (finding upward adjustments to sales for vacancy were reasonable based upon the appraiser's testimony that “It is reasonable to expect an occupied building to sell for more than a vacant building provided the building is owner occupied or the leases on the buildings are at or near market value.”); *Jevin Corp. v. Wright County Board of Review*, 2005 WL 839515 *2 (Iowa Ct. App. April 13, 2005) (finding the district court properly rejected a sale that was not adjusted for factors including vacancy at the time of sale).

The properties Lundell supplied appeared to have extended vacancies, rather than vacancy as a result of a normal exposure to the market. (Ex. 13 - Sales V9; V11; V12; V13; and V17). The extended vacancies may have impacted the properties' sale prices and in turn would then require adjustments. Without additional information on

typical exposure periods and the apparent extended vacancies of the properties, the unadjusted vacant sales are unreliable.

We, therefore, conclude the Vaske sales fail to show the subject property is over assessed.

Lundell also submitted two more recent sales of industrial buildings, but again made no adjustments to the sales for differences to the subject. Although newer than the sales from Vaske, these sales also vary in age and size as compared to the subject and without adjustment for these factors, we conclude they fail to support Lundell's assertion the subject property is over assessed.

Finally, the Board of Review submitted three sales of industrial property with closing dates from 2017 to 2019. Generally, these three properties are more similar in size than Lundell's properties. However, again no adjustments were made to the sales for differences to the subject, or for potential sale conditions regarding B3. Excluding B3, the remaining two sales occurred more proximate to the assessment date, the properties are more similar in size to the subject than Lundell's sales, and the sale prices would tend to support the assessment.

Based on the foregoing, we find Lundell has failed to support the property is inequitably assessed or assessed for more than the value authorized by law. Lundell has also failed to show the actual fair value of the subject.

Order

PAAB HEREBY AFFIRMS the Sac County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial review action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

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